UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

PIERRE LAVI,

                  Plaintiffs,

         -v-

MUFG BANK, *et al.*,

                  Defendants.

22-CV-3167 (JPO)

ORDER

J. PAUL OETKEN, District Judge:

This action is dismissed without prejudice for failure to prosecute.

Plaintiff Pierre Lavi brought this action against MUFG Bank and its alleged "instrumentality," Danamon Bank ("Danamon"). On August 23, 2024, the Court dismissed Lavi's claims against MUFG Bank pursuant Rule 12(b)(2) of the Federal Rules of Civil Procedure. (ECF No. 39.) Thus far, Danamon, a foreign entity with no presence or apparent registered agent in the United States, has not been served. Because Lavi is proceeding *in forma pauperis*, the Court is obligated to assist him in serving Danamon, and accordingly directed him to provide an address at which Danamon could be served no later than September 16, 2024. (ECF No. 41.) To date, the Court has received no reply from Lavi.

Federal Rule of Civil Procedure 41(b) authorizes a district court to dismiss an action "if the plaintiff fails to prosecute or to comply with the rules or a court order." *Baptiste v. Sommers*, 768 F.3d 212, 216 (2d Cir. 2014). It is settled that Rule 41(b) "gives the district court authority to dismiss a plaintiff's case *sua sponte* for failure to prosecute." *LeSane v. Hall's Sec. Analyst, Inc.*, 239 F.3d 206, 209 (2d Cir. 2001). Dismissal without prejudice is appropriate. Danamon has not been served for over two years, despite prompting by the Court, and there is prejudice where Plaintiff has caused an "unreasonable delay." *Lesane*, 239 F.3d at 210. Dismissal without

prejudice appropriately strikes a balance "between alleviating court calendar congestion and

protecting a party's right to due process and a fair chance to be heard." *Id.* at 209.

Accordingly, this action is dismissed without prejudice to refiling.

The Clerk of Court is directed to close this case.

SO ORDERED.

Dated: September 30, 2024
       New York, New York

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                    J. PAUL OETKEN
                    United States District Judge

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